

REMARKS

Claims 1-12 are pending in the application. Claims 1-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Publication No. 2002/0178621 (“Darby”). Claims 1, 7-8, and 10 have been amended. Claims 6 and 12 have been cancelled. Claims 13-21 have been added. No new matter is added.

Applicants’ claim 1 recites an orthopedic appliance having a substantially rigid structure, the substantially rigid structure including an inner surface and an outer surface and a plurality of holes therethrough at pre-selected locations, a flexible support member comprising a top layer and a bottom layer, and a liner affixed to the flexible support member and adapted to be positioned next to the body portion, the liner being of a material that facilitates the transfer of moisture from the body portion out through said holes of said substantially rigid structure to the atmosphere, and where the flexible support member is positioned between the substantially rigid structure and the liner.

Darby teaches a shoe “constructed of an outer covering 340 of leather, canvas, nylon mesh or other suitable material with an inner lining 350 of EVA or soft foam material that can be easily separated from the outer covering (paragraph 29.” In figure 3, Darby shows inner lining 350 being positioned directly on the outer covering 340 of the shoes. Darby lacks at least a flexible support member that is positioned between a substantially rigid structure and a liner. Accordingly, Applicants request that the Examiner withdraw the rejection for claim 1 and its dependent claims.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Applicants believe no fee is due with this response other than as reflected on the enclosed Amendment Transmittal. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. ACIZ-P01-004 from which the undersigned is authorized to draw.

Application No. 10/726,343
Amendment dated August 14, 2008
After Final Office Action of February 14, 2008

Docket No.: ACIZ-P01-004

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Respectfully submitted,

By Charles D. Larsen

Charles D. Larsen

Registration No.: 48,533
ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110
(617) 951-7000
(617) 951-7050 (Fax)
Attorneys/Agents For Applicant